

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INCIDENT INVESTIGATION OF COLUMBIA GAS OF)	
KENTUCKY, INC. RELATING TO THE REPORTING)	
OF AN EXPLOSION)	CASE NO. 89-268

O R D E R

This case was established by Order of the Commission issued on October 4, 1989 on its own motion to investigate an explosion which occurred September 9, 1987 in Lexington, Kentucky, and which involved facilities owned and operated by Columbia Gas of Kentucky, Inc. ("Columbia"). The explosion and fire occurred at 1590 Delaware Avenue, Lexington, Kentucky, and totally destroyed a commercial building belonging to Dan Middleton and equipment belonging to Michael Zanchez who rented the building. Columbia notified the Commission's Division of Engineering, Gas Safety Branch, of the incident as required by 807 KAR 5:027, Section 3(1), at approximately 10:30 a.m., on September 9, 1987. Later that same afternoon a Commission investigator arrived at Columbia's office and reviewed service order records and odorization records for 1590 Delaware Avenue. The Commission investigator was told at that time that the Lexington Fire Department suspected arson and that the area was sealed off until the investigation was finished. Verification was made with the Lexington Fire Department that arson had not been ruled out as a cause of the fire. On September 14, 1987, a telephone follow-up

was made by the Commission Staff to Columbia to see if a determination concerning arson had been made. Staff was told that nothing had changed since the last contact of September 9, 1987. The PSC emergency report that summarizes the telephone reporting was then filed.

In June of 1989, Commission Staff learned that a lawsuit, Civil Action No. 88-CI-3103,¹ had been filed on behalf of Michael Sanchez alleging that leaking natural gas from a distribution line located under or very close to the destroyed building had caused the explosion and fire; and that Columbia had a private contractor working in the area when the explosion occurred. Commission Staff was also told that a Columbia crew came back to the same location the night of the explosion to purge gas from the ground around the destroyed building. Most importantly, Staff was informed that the Lexington Fire Department had issued a supplementary report dated September 15, 1987 which ruled out arson as the cause of the incident and found instead that a gas leak caused the explosion.

The Commission's administrative regulation 807 KAR 5:027, Section 4(3)(b), provides that: "If additional information is received by the utility subsequent to the initial report indicating a different cause, more serious injury or more serious property damage than was initially reported, a supplemental

¹ Michael J. Sanchez, Individual, d/b/a Sanchez Textile Unlimited v. Columbia Gas of Kentucky, Inc., No. 88-CI-3103 (Fayette Circuit Court filed September 1, 1988).

telephone report shall be made to the Commission Staff as soon as practicable." Columbia did not and has not made a supplemental report to the Commission regarding the Lexington Fire Department's report of September 15, 1987 of a gas leak as the cause of the incident.

At Columbia's request on April 2, 1990, an informal conference was held between Columbia and Commission Staff to discuss the issues presented in the instant case. As a result of that informal conference, the Settlement Agreement, which is attached hereto and incorporated herein as an Appendix, was executed between Columbia and Staff.

After review of the record in this case, the Settlement Agreement, and being otherwise sufficiently advised, the Commission finds that the joint stipulation and recommendation should be accepted based upon the following:

Columbia admits that it did not notify the Commission of the Lexington Fire Department's supplemental report which found that the fire/explosion was probably caused by natural gas, said report having been issued September 15, 1987. Columbia's failure to notify the Commission is admitted to be in violation of 807 KAR 5:027, Section 4(3)(b). Columbia further acknowledges that it did not notify the Commission in accordance with 807 KAR 5:027, Section 4(3)(b), that it had discovered 10 percent gas against the foundation of the destroyed building and that the 8 inch M.P. line was under the foundation of the destroyed building. Finally, Columbia acknowledges that it did not notify the Commission of the tests conducted at 1590 Delaware Avenue on October 30, 1987.

While a number of different participants were present on October 30, 1987 for the tests, Columbia admits that it failed to notify the Commission that the tests were going to be conducted on that date. Based upon the foregoing factual admissions, the Commission finds the Settlement Agreement to be reasonable; and the Commission, therefore, accepts the Settlement Agreement in its entirety with the addition of the penalty assessed herein.

The Settlement Agreement is silent on a penalty for the violations. KRS 278.992 provides that anyone violating any regulation governing the safety of pipeline facilities and/or the transportation of gas shall be subject to a civil penalty not to exceed \$1000 for each violation for each day that the violation persists. The maximum civil penalty is set by that same statute at \$200,000 for any related series of violations. The violations in question in the instant case occurred in September of 1987 and continued thereafter until the instant case was established, October 4, 1989, a period of approximately two years. As stated above, the Commission will accept the stipulation and recommendation as the settlement of the factual circumstances surrounding this incident, however, the Commission finds that in this particular case a fine should be assessed. After consideration of all relevant factors, including the appropriateness of the penalty to the size of the business, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance after notification of the violation, the Commission has determined that Columbia should be fined \$10,000 for the violations described herein.

The Settlement Agreement further provides that if the stipulation and recommendation is not adopted in its entirety each party reserves the right to withdraw from it and require that hearings go forward upon all or any matters involved therein and in such event the terms of the agreement are not deemed binding upon the parties.

Columbia is hereby advised that it may withdraw the settlement agreement and proceed to hearing on all issues in this case or it may accept the penalty assessed herein as the resolution of this proceeding.

IT IS THEREFORE ORDERED that:

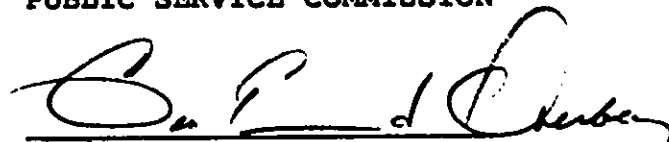
1. The Settlement Agreement be and it hereby is accepted in its entirety unless Columbia exercises its right to withdraw by notifying the Commission in writing within 10 days of this Order.

2. Columbia is hereby assessed a civil penalty of \$10,000 for the violations enumerated herein pursuant to the Commission's authority under KRS 278.992 unless the Settlement Agreement is subsequently withdrawn.

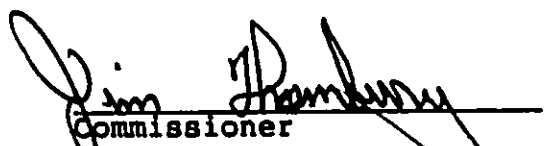
3. If notification of withdrawal is not received within 10 days of the date of this Order, the \$10,000 penalty shall be due within 20 days of the date of this Order. Payment shall be made by certified check or money order made payable to Treasurer, Commonwealth of Kentucky. Said check or money order shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 22nd day of June, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX TO ORDER OF THE
PUBLIC SERVICE COMMISSION CASE NO. 89-268
Dated 6/22/90

RECEIVED

MAY 10 1990

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE
COMMISSION

In the Matter of:

Incident Investigation of : Case No. 89-268
Columbia Gas of Kentucky, :
Inc. Relating to the : Joint Stipulation and
Reporting of an Explosion : Recommendation

JOINT STIPULATION AND RECOMMENDATION

PREFACE

On October 4, 1989, the Commission issued an order to Columbia Gas of Kentucky, Inc., which directed Columbia to file specific information, documents, reports, photos, etc. relating to a fire/explosion¹ that occurred on September 9, 1987 at 1590 Delaware Avenue, Lexington, Kentucky. On October 25, 1989, Columbia filed a response to the aforementioned order which included the requested data with the exception of certain in-house reports/tests and video that had been prepared for use by counsel in the trial of Case No. 88-CI-3103, Fayette Circuit Court.

On December 12, 1989, the Commission ordered Columbia to provide copies of the in-house reports/tests and video. Moreover, the Commission requested Columbia to furnish additional information relating to its facilities in the geographical area of 1590 Delaware Avenue. On December 15, 1989, Columbia submitted the information, tests, reports and video, but petitioned the Commission, in accordance with 807 KAR 5:001, to treat the data confidentially due to the filing of civil litigation in the Fayette

¹ It is clear that a fire occurred at 1590 Delaware Avenue. However, it is not clear that an explosion occurred.

Circuit Court. On January 25, 1990, the Commission rejected Columbia's petition for confidential protection of the responses previously submitted. By order dated March 8, 1990, the Commission scheduled a hearing on the matter for April 3, 1990. Following an informal conference between Columbia and Staff on April 2, 1990, it was agreed that the matter could be submitted to the Commission by Joint Stipulation.

BACKGROUND

At approximately 5:30 a.m. on September 9, 1987, a fire/explosion occurred at 1590 Delaware Avenue, Lexington, Kentucky. At 6:39 a.m., Columbia received a call from the Lexington Fire Department requesting assistance which Columbia provided shortly thereafter. Gas was turned off to the premises and the fire was contained primarily to the building housing Sanchez Textiles. An investigation of the incident by the Lexington Fire Department and Columbia personnel ensued immediately. The Lexington Fire Department informed Columbia personnel that the fire was "suspicious in nature".

At 10:27 a.m. on the morning of the fire, Leroy Elder, District Service Manager, called the Commission to report the incident. He stated that "there was nothing to indicate that natural gas was involved at this time." During Columbia's investigation of the fire on September 9th, a Columbia employee discovered 10% gas against the foundation of the destroyed building. It was determined also that the building had been

constructed over Columbia's 8" M.P. line. The 8" M.P. line was abandoned and plugged. In addition, Columbia personnel purged the area of residual gas. Gas samples were taken on September 9th-10th.

On September 14, 1987, Mr. Elder and Mr. Amburgey, of the Commission's Staff, had further discussions concerning the incident during which Mr. Elder indicated that the "cause is undetermined at this time." On the following day -- September 15 -- Lt. Glenn W. Parks of the Lexington Fire Department modified his initial opinion by concluding that "natural gas was probably the cause of the explosion." ¹

On October 30, 1987, Columbia conducted specific tests on the 61 feet of 8" M.P. line under the foundation of the building at 1590 Delaware Avenue. Calculations were performed to determine whether natural gas from the 8" M.P. line could have caused the fire.

In reviewing this empirical information that corroborated the conclusions of other individuals who had investigated the fire on September 9-10, Columbia reaffirmed its conclusion that the fire/explosion was not caused by the natural gas leak in the 8" M.P. line.

¹ Columbia is uncertain as to when it was specifically notified of this modified opinion, but Columbia acknowledges that it had notice of the change by September 29, 1987.

COMMISSION PROCEDURES

807 KAR 5:001, Section 4(6) provides that parties to any investigation may agree upon the facts involved in the proceeding, and such written stipulation shall be regarded and used as evidence at hearing. 807 KAR 5:001, Section 4(4) further provides that the issues in any Commission proceeding may be settled by the mutual agreement of parties.

It is the intent and purpose of Columbia and Staff to express their agreement on a mutually satisfactory resolution of all the issues in this case. It is understood by all parties hereto that this Stipulation and Recommendation is not binding upon the Commission. It is the position of the parties hereto that this Stipulation and Recommendation is supported by proper data and information and should be afforded serious consideration by the Commission.

STIPULATION AND RECOMMENDATION

Based upon the parties' participation in the informal conference referred to herein and the materials on file with the Commission pursuant to the requests and responses thereto, the parties hereby stipulate and recommend the following:

(1) Columbia did not notify the Commission of the Lexington Fire Department's report of September 15, 1987 in accordance with 807 KAR 5:027, Section 4(3)(b), which opined that the fire/explosion was probably caused by natural gas.

(2) Columbia did not notify the Commission in accordance with 807 KAR 5:027, Section 4(3)(b), that it had discovered 10% gas against the foundation and that the 8" M.P. line was under the foundation of the destroyed building.

(3) Columbia did not notify the Commission of the tests conducted at 1590 Delaware Avenue on October 30, 1987. While a number of representatives from different participants were present on October 30th for the tests, Columbia failed to notify the Commission that the tests were going to be conducted on that date.

After a scrutiny of the regulations under 807 KAR 5:027 and an evaluation, in retrospect, of the facts in this incident, Columbia believes that the concerns expressed by the Staff during its investigation are appropriate. Accordingly, Columbia pledges that it will adhere to the following standards in any future incidences of the nature of the fire/explosion that occurred at 1590 Delaware Avenue on September 9, 1987:

(a) Upon receipt of any information from a local fire department or other agency or department involved in investigating an incident or accident that differs from a previously submitted report, Columbia will notify the Commission in accordance with 807 KAR 5:017, Section 4(3)(b). Columbia will notify the Commission even in situations where it believes the report to be erroneous.

(b) In incidences which require reporting under 807 KAR 5:027, Columbia will timely apprise the Commission's investigator of any additional findings ascertained by Columbia personnel, e.g.,

any gas concentrations of 4% or more against the foundation, the specific location of the lines involved, etc.

(c) When Columbia conducts scientific tests in incidences of this nature, e.g., October 30th leakage tests and calculations, it will notify the Commission of the date in order for it to have a representative(s) attend the tests if it so elects.

If this Stipulation and Recommendation is not adopted in its entirety, each party reserves the right to withdraw from it and require that hearings go forward upon all or any matters involved herein, and, in such event, the terms of this agreement shall not be deemed binding upon the parties hereto.

Both Columbia and Staff agree that the foregoing Stipulation and Recommendation is reasonable and is in the public interest and urge that the Commission adopt this agreement in its entirety.

Agreed and accepted this _____ day of May, 1990.



W. Hale Watkins
Senior Attorney
Columbia Gas of Kentucky, Inc.



Attorney
Public Service Commission